STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

NeuroRestorative MI
Petitioner **File No. 21-1828**

v

Allstate Insurance Company
Respondent

Issued and entered
this 3rd day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On December 9, 2021, NeuroRestorative MI (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Allstate Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on October 8, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 10, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 17, 2021, and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 3, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 20, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for occupational therapy, therapeutic recreational therapy, and speech language pathology services rendered to the injured person on two dates of service at issue[1] under Current Procedural Terminology (CPT) codes 92507, 99082, 97750, and 97530, which are described as: treatment of speech, language, voice, communication, and/or auditory processing; travel time: travel time round trip from NRMI-GR office to participant's home and back; physical performance testing; and therapeutic/dynamic activities to improve functional performance; respectively.

With its appeal request, the Petitioner submitted a "letter of necessity for clinical services" that identified the following diagnoses for the injured person in relation to a motor vehicle accident in July 2019: traumatic brain injury, depression, gait and mobility abnormalities, muscle weakness, post-traumatic stress disorder, cognitive communication deficit, dysphasia, dysarthria and anarthria, dislocation of jaw, bilateral, lack of coordination and visual disturbances.

The Petitioner's request for an appeal further stated:

> In summary, occupational therapy, recreational therapy, and speech-language pathology services that continue to be provided are both reasonably necessary to progress [the injured person] toward [the injured person's] goals as well as to prevent any decline in function.

In the Respondent's determination, Respondent noted that its utilization review nurse determined that the care exceeded standards for either utilization or relatedness. Respondent also noted that additional information was needed to make a reasonable and necessary determination and therefore denial of the treatment was appropriate.

In its reply to Petitioner's appeal, the Respondent noted that it reviewed additional medical records, including the above-referenced letter of necessity for clinical services, and that the additional review did not result in an overturn of its determination.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment or overutilization.

[1] The dates of service at issue in this appeal are August 16, 2021, and August 20, 2021.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, the at-issue treatment was not medically necessary in accordance with medically accepted standards and was overutilized in frequency or duration.

The IRO reviewer is a practicing physician who is board certified in family medicine. The reviewer is knowledgeable with respect to the medical conditions and type of treatment at issue in this appeal. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or professional medical societies, boards, and associations. The IRO reviewer primarily relied on the American College of Occupational and Environmental Medicine (ACOEM) guidelines pertaining to traumatic brain injury (TBI) and follow-up visits in reaching its determination.

The IRO reviewer opined that:

> [Per the ACOEM TBI guidelines], when a patient has residual and stable sequalae of TBI, less frequent follow-up is needed. After 2 years, and when there is complete stability, follow-up may be infrequent, such as every 6 months, unless there is functional transitioning. … Based on the documentation provided, the injured person appears to be much more stable and able to do more independently related to the prior treatments in recovery. [T]here were no major transitions around the dates of service in question and it had been two years since the injured person's accident. [L]ess frequent and more personalized intermittent sessions of therapy [are] more appropriate at this phase in the injured person's care.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the occupational therapy, therapeutic recreational therapy, and speech language pathology services provided to the injured person on the dates of service at issue was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determinations dated October 8, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial

review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford